

Invitation to Comment

<p>Title</p>	<p>Civil Forms: <i>Notice of Entry of Judgment or Order</i> (approve form CIV-130)</p>
<p>Summary</p>	<p>California Code of Civil Procedure section 664.5 generally requires a prevailing party to serve and file a notice of entry of judgment or appealable order. Under the California Rules of Court, the mailing of this notice triggers the period in which an appeal must be filed. Code of Civil Procedure section 1019.5 similarly requires that the prevailing party generally provide notice of a court’s decision or order regarding a motion. Notice of entry of an order triggers the time for seeking reconsideration of the order and, for certain orders, the time for seeking review by way of petition for extraordinary writ. The new optional form provides a simple and clear way for litigants to provide notice of entry of judgment or an order.</p>
<p>Source</p>	<p>Civil and Small Claims Advisory Committee Hon. Dennis M. Perluss, Chair</p> <p>Appellate Advisory Committee Kathryn Doi Todd, Chair</p>
<p>Staff</p>	<p>Anne Ronan 415-865-8933, anne.ronan@jud.ca.gov</p> <p>Heather Anderson 415-865-7691, heather.anderson@jud.ca.gov</p>
<p>Discussion</p>	<p>In spring 2008, the Civil and Small Claims Advisory Committee circulated for public comment an earlier version of this proposed form that focused only on notice of entry of judgment or an appealable order. Based on further discussions following the public comment period, the Civil and Small Claims and Appellate Advisory Committees concluded that the scope of the proposed form should be broadened to encompass notice of entry of other orders. The committees therefore revised the form and are circulating this revised form for public comment.</p> <p>In civil actions other than small claims actions, following entry of a judgment, decree, or appealable order, a prevailing party who is represented by counsel is required under Code of Civil Procedure section 664.5(a) to prepare and serve by mail a notice of entry of</p>

judgment, and to file the notice and proof of service with the court.¹ The mailing of this notice triggers the period in which an appeal may be filed in both unlimited civil cases (Cal. Rules of Court, rule 8.104) and limited civil cases (rule 8.822). Similarly, under Code of Civil Procedure section 1019.5, when a motion is granted or denied (in whole or in part), the prevailing party is required to give notice of the court's decision or order to all other parties, unless the court orders otherwise or notice is waived by all parties in open court and is entered in the minutes. Notice of entry of an order concerning a motion is what starts the time period for asking the court to reconsider, modify, amend, or revoke the order (Code Civ. Proc. § 1008). In addition, in the case of some non-appealable orders, service of a notice of entry of the order starts the time for seeking review by way of petition for extraordinary writ (see, for example, Code Civ. Proc. § 437c(m)(1) concerning the denial of a motion for summary judgment).

There is currently no Judicial Council form available for parties to use to give notice of a judgment or order. The proposed *Notice of Entry of Judgment or Order* (form CIV-130) is a simple form consisting of statements (1) that a judgment, decree, or order was entered, with the date of entry, and (2) that a copy of the judgment or order is attached. There is a space to indicate whether the action is of limited jurisdiction or unlimited jurisdiction. The back of the form includes a proof of service by mail, the method of service required under Code of Civil Procedure section 664.5(a).

The public would benefit from having such a form available. Litigants, especially self-represented litigants, would have a simple form available to give notice. In addition, litigants could be more certain that what they are filing or receiving constitutes a notice of entry of judgment that triggers the time for seeking review of the judgment or order or taking other action specified by law. The requirement that a copy of the judgment or order at issue be attached clarifies what judgment or order has been entered. The form is an optional one, so litigants who wished to draft their own notice may still do so.

Attachment

¹ If the prevailing party is self-represented, the court must send notice of entry of the judgment, decree, or appealable order.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	<p style="text-align: center;"><i>FOR COURT USE ONLY</i></p> <p style="text-align: center;">DRAFT v. 9 02/25/09</p> <p style="text-align: center;">Not Approved By Judicial Council</p>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	
<p style="text-align: center;">NOTICE OF ENTRY OF JUDGMENT OR ORDER</p> <p>(Check one): <input type="checkbox"/> UNLIMITED CASE (Amount demanded exceeded \$25,000) <input type="checkbox"/> LIMITED CASE (Amount demanded was \$25,000 or less)</p>	CASE NUMBER:

TO ALL PARTIES :

1. A judgment, decree, or order was entered in this action on (date):
2. A copy of the judgment, decree, or order is attached to this notice.

Date:

 (TYPE OR PRINT NAME OF ATTORNEY PARTY WITHOUT ATTORNEY)



 (SIGNATURE)

PLAINTIFF/PETITIONER: _____	CASE NUMBER:
DEFENDANT/RESPONDENT:	

**PROOF OF SERVICE BY FIRST-CLASS MAIL
NOTICE OF ENTRY OF JUDGMENT OR ORDER**

(NOTE: You cannot serve the Notice of Entry of Judgment or Order if you are a party in the action. The person who served the notice must complete this proof of service.)

1. I am at least 18 years old and **not a party to this action**. I am a resident of or employed in the county where the mailing took place, and my residence or business address is *(specify)*:

2. I served a copy of the *Notice of Entry of Judgment or Order* by enclosing it in a sealed envelope with postage fully prepaid and *(check one)*:

- a. deposited the sealed envelope with the United States Postal Service.
- b. placed the sealed envelope for collection and processing for mailing, following this business's usual practices, with which I am readily familiar. On the same day correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service.

3. The *Notice of Entry of Judgment or Order* was mailed:

- a. on *(date)*:
- b. from *(city and state)*:

4. The envelope was addressed and mailed as follows:


- | | |
|--|--|
| <ul style="list-style-type: none"> a. Name of person served:
 Street address: City: State and zip code: | <ul style="list-style-type: none"> c. Name of person served:
 Street address: City: State and zip code: |
| <ul style="list-style-type: none"> b. Name of person served:
 Street address: City: State and zip code: | <ul style="list-style-type: none"> d. Name of person served:
 Street address: City: State and zip code: |

Names and addresses of additional persons served are attached. *(You may use form POS-030(P).)*

5. Number of pages attached _____.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

_____ (TYPE OR PRINT NAME OF DECLARANT)		_____ (SIGNATURE OF DECLARANT)
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Item SPR09-09 Response Form

Title: Civil Actions: Notice of Entry of Judgment or Order (adopt form CIV-030)

- Agree with proposed changes
- Agree with proposed changes **if modified**
- Do not agree** with proposed changes

Comments: _____

Name: _____ **Title:** _____

Organization: _____

- Commenting on behalf of an organization

Address: _____

City, State, Zip: _____

To Submit Comments

Comments may be submitted online, written on this form, or prepared in a letter format. If you are *not* commenting directly on this form, please include the information requested above and the proposal number for identification purposes. Please submit your comments online or email, mail, or fax comments. You are welcome to email your comments as an attachment.

Internet: <http://www.courtinfo.ca.gov/invitationstocomment/>

Email: invitations@jud.ca.gov

Mail: Ms. Camilla Kieliger
Judicial Council, 455 Golden Gate Avenue
San Francisco, CA 94102

Fax: (415) 865-7664, Attn: Camilla Kieliger

DEADLINE FOR COMMENT: 5:00 p.m., Wednesday, June 17, 2009

Circulation for comment does not imply endorsement by the Judicial Council or the Rules and Projects Committee. All comments will become part of the public record of the council's action.